



University of Hawaii at Manoa

Environmental Center
Crawford 317 • 2550 Campus Road
Honolulu, Hawaii 96822
Telephone (808) 948-7361

Office of the Director

RL:0364

SB 1494, SD 1 RELATING TO CONSERVATION LAND

Statement for
House Committees on
State General Planning
Water, Land Use Development, and Hawaiian Homes
Public Hearing, 28 March 1979

By
Doak C. Cox
Environmental Center

SB 1494, SD 1 would amend certain sections of HRS Chapter 205 so as to discourage the reclassification of land now in the Conservation District and encourage the reclassification of land now in the Urban District. Neither statement on SD 1 is based on an earlier statement (Env. Ctr. RL:0340) on the original version of the bill. This statement does not reflect an institutional position of the University.

The first of the proposed amendments relates to HRS 205-4(e), which deals with the intervention of agencies and persons in the proceedings for amendments to district boundaries. A new subsection would be added requiring the intervention of the Department of Land and Natural Resources and the County Board of Water Supply. These agencies would be required to include assessments of the effects of a proposed boundary change on endemic flora and fauna, on buffer zone needs, on needs for integrity of the Conservation District, and on watershed areas and water quantities. The intent is good. Considerable expense would be involved in making the assessments in detail, but assessments adequate for wise land reclassification decisions would not be difficult to produce. Additional assessments that should be considered relate to effects on sedimentation and effects on increased flood discharge. The effect of the proposed assessments could be produced alternatively by including conservation district boundary changes as actions subject to environmental assessment under the State Environmental Impact Statement Act. It is irrational that uses within the conservation district are subject to the State EIS law whereas changes in boundaries that would remove land from the conservation district are not.

The second amendment relates to HRS 205-16.1, which deals with the adoption of interim land-use guidance policy. The reclassification of urban lands would remain

as an encouraged policy in subsection (8) to be renumbered (7), but the policy of not reclassifying conservation lands (present subsection (6)) would be deleted from that section and expanded in a new section 205-16.3 requiring demonstration of a compelling reason as a condition to such reclassification. The intent of this provision also is good.

The language of the bill has been improved in SD 1 over the original version. Some further improvements are, however, desirable, for example:

- 1) The expressed intent of bringing "the petition for reclassification of conservation lands within the parameters set by the goals" etc., (p. 3, ls. 17-20) presumably means approving only those proposed reclassifications of conservation land that are in accord with the goals..." etc.
- 2) "Any other provisions of law to the contrary notwithstanding" (p. 4, ls. 2-3; p. 7, l. 23 to p. 8, l. 1) is an unfortunate phrase. What if two or more provisions in the law containing this phrase apply. Which gives way to the other?